



Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Requestor Name and Address: PINE CREEK MEDICAL CENTER 5201 GREEN STREET SUITE 215 MURRAY UT 84123	MFDR Tracking #: M4-06-7944-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #: UTICA MUTUAL INSURANCE CO Box #: 01	Date of Injury:
	Employer Name:
	Insurance Carrier #:

PART II: REQUESTOR'S POSITION SUMMARY

Requestor's Rationale for Increased Reimbursement: "Not fair or reasonable compared to other payers."

Amount in Dispute: \$3479.94

PART III: RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The medical bill in question was reviewed on October 17, 2005 and January 2, 2006. The bill was reviewed in accordance with the Medical/Trailblazer guidelines, a practice that the DWC has approved. Medicare does not allow for pharmacy, supply or recovery room reimbursement. Those charges that are allowed under Medicare guidelines were then increased 125%." "It is the respondent's position that the provider is not entitled to further payment as the Division of Workers Compensation approved the fair & reasonable policy practiced by Utica National Insurance Group in 2003."

PART IV: SUMMARY OF FINDINGS

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
8/30/2005	W1, W1(05)-RC 05, W1(28)-RC 28, W4	Outpatient Surgery	\$3479.94	\$3479.94
Total Due:				\$3479.94

PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code §413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.1, titled *Use of the Fee Guidelines*, effective May 16, 2002 set out the reimbursement guidelines.

This request for medical fee dispute resolution was received by the Division on August 25, 2006. Pursuant to Division rule at 28 TAC §133.307(g)(3), effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, the Division notified the requestor on September 1, 2006 to send additional documentation relevant to the fee dispute as set forth in the rule.

- For the services involved in this dispute, the respondent reduced or denied payment with reason codes:
 - W1-Workers Compensation state fee schedule adjustment.
 - W1(05)-RC 05-The value of the procedure is included in the value of another procedure performed on this date.
 - W1(28)-RC 28-The reduction was made for reasons indicted in note below or on the attached note or letter.
 - Reimbursement per outpatient hospital protocol of Utica National.
 - W4-No additional reimbursement allowed after review of appeal/reconsideration.
- This dispute relates to outpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.1, effective May 16, 2002, 27 TexReg 4047, which requires that "Reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable

rates as described in the Texas Workers' Compensation Act, §413.011 until such period that specific fee guidelines are established by the commission."

3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
4. Division rule at 28 TAC §133.307(g)(3)(D), effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement." Review of the submitted documentation finds that:
 - The requestor's rationale for increased reimbursement from the *Table of Disputed Services* states "Not fair or reasonable compared to other payers."
 - Pine Creek Medical Center provided two medical bills and explanations of benefits (EOBs) submitted to them by carriers other than the respondent Utica Mutual Insurance Company. The EOBs contained information on the amounts billed to these other carriers for the same or similar outpatient surgical services in dispute, and referenced dates of service in close proximity to those in this dispute.
 - Based upon documentation, the amount billed represented Pine Creek Medical Center's usual and customary charge for the submitted outpatient surgical services. The Division concludes that Pine Creek Medical Center has billed their usual and customary charge for outpatient surgical services to Utica Mutual Insurance Company for the date of service in dispute.
 - The submitted redacted EOBs from other carriers reflect payments of \$3,652.88 to \$3,655.88 for same or similar services as the disputed services.
 - Review of the submitted documentation finds that the requestor has supported that the requested reimbursement would be fair and reasonable, is designed to ensure the quality of medical care, increase the security of payment, and achieve effective medical cost control. The Division further finds that the requested reimbursement would not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf.
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 - The request for additional reimbursement is supported. Thorough review of the documentation submitted by the requestor finds that the requestor has demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. The Division concludes that based upon the supporting documentation in this dispute, additional payment of \$3,479.94 complies with the requirements of Division rule at 28 TAC §134.1. Additional payment is recommended.
5. Division rule at 28 TAC §133.304(i)(1), effective July 15, 2000, 25 TexReg 2115, requires that "When the insurance carrier reduces or denies payment for treatment(s) and/or service(s) for which the Division has not established a maximum allowable reimbursement, the insurance carrier shall... develop and consistently apply a methodology to determine fair and reasonable reimbursement amounts to ensure that similar procedures provided in similar circumstances receive similar reimbursement." Review of the submitted documentation finds that the respondent did not submit documentation to support that the insurance carrier has developed and consistently applies a methodology to determine fair and reasonable reimbursement amounts in accordance with Division rule at 28 TAC §133.304(i)(1).
6. Division rule at 28 TAC §133.304(i)(2), effective July 15, 2000, 25 TexReg 2115, requires that "When the insurance carrier reduces or denies payment for treatment(s) and/or service(s) for which the Division has not established a maximum allowable reimbursement, the insurance carrier shall... explain and document the method it used to calculate the rate of pay, and apply this method consistently." Review of the submitted documentation finds no explanation or documentation of the method used to calculate the rate of pay, nor any documentation to support consistent application of the method.
7. Division rule at 28 TAC §133.307(j)(1)(E)(iii), effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, requires that the respondent shall file a response to the requestor's additional documentation that shall include a statement of the disputed fee issue(s), which includes "a discussion of how the Texas Labor Code and commission [now the Division] rules, including fee guidelines, impact the disputed fee issues." Review of the submitted documentation finds that the respondent did not discuss how the Texas Labor Code and Division rules impact the disputed fee issues. The Division concludes that the respondent has not met the requirements of Division rule at 28 TAC §133.307(j)(1)(E)(iii).
8. Division rule at 28 TAC §133.307(j)(1)(E)(iv), effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, requires that the respondent shall file a response to the requestor's additional documentation that shall include a statement of the disputed fee issue(s), which includes "a discussion regarding how the submitted documentation supports the respondent position for each disputed fee issue." Review of the submitted

documentation finds that the respondent did not discuss how the submitted documentation supports the respondent position for each disputed fee issue. The Division concludes that the respondent has not met the requirements of Division rule at 28 TAC §133.307(j)(1)(E)(iv).

9. Division rule at 28 TAC §133.307(j)(1)(F), effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, requires that if the dispute involves health care for which the Division has not established a maximum allowable reimbursement the respondent's response shall include "documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code §413.011 and §133.1 and §134.1 of this title." Review of the submitted documentation finds that:

- The respondent's position statement states that "The medical bill in question was reviewed on October 17, 2005 and January 2, 2006. The bill was reviewed in accordance with the Medical/Trailblazer guidelines, a practice that the DWC has approved. Medicare does not allow for pharmacy, supply or recovery room reimbursement. Those charges that are allowed under Medicare guidelines were then increased 125%." "It is the respondent's position that the provider is not entitled to further payment as the Division of Workers Compensation approved the fair & reasonable policy practiced by Utica National Insurance Group in 2003." The respondent did not submit documentation to support that the carrier's rate of reimbursement exceeds the Act's criteria for payment.
- The respondent did not explain or submit documentation to support the method used to calculate the rate of pay as required under Division rule at 28 TAC §133.304(i)(2).
- The respondent did not support that the Division approved the fair and reasonable policy practiced by Utica National Insurance Group in 2003.
- The respondent did not discuss or explain how the amount paid is a fair and reasonable rate of reimbursement.
- The respondent did not discuss or explain how the amount paid by the respondent would ensure the requirements of Division rule at 28 TAC §134.1.

The respondent's position is not supported. Thorough review of the documentation submitted by the respondent finds that the respondent has not demonstrated or justified that the amount paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code §413.011 and Division rules at §133.1 and §134.1. The Division concludes that the respondent has not met the requirements of Division rule at 28 TAC §133.307(j)(1)(F).

10. The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports the total amount sought by the requestor per Texas Labor Code §413.011(d) and Division rule at 28 TAC §134.1. The Division concludes that the requestor supports its position that additional reimbursement is due. As a result, the amount ordered is \$3,479.94.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code §413.011(a-d), §413.031 and §413.0311
28 Texas Administrative Code §133.307, §134.1, §133.304
Texas Government Code, Chapter 2001, Subchapter G

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031 and §413.019 (if applicable), the Division has determined that the requestor is entitled to \$3,479.94 reimbursement for the services involved in this dispute. The Division hereby **ORDERS** the respondent to remit to the requestor the amount of 3,479.94 plus applicable accrued interest per Division rule at 28 Tex. Admin. Code §134.803, due within 30 days of receipt of this Order.

DECISION/ORDER:

Authorized Signature

Medical Fee Dispute Resolution Officer

12/6/2010

Date

PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 TAC §148.3(c).

Under Texas Labor Code §413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.